



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN VIRGINIA REGIONAL OFFICE  
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L. Preston Bryant, Jr.  
Secretary of Natural Resources

David K. Paylor  
Director

~~Jeffery A. Steers~~  
Regional Director

### STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO

**BONSAL AMERICAN INC.**  
**Registration No. 40550**

#### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1307(D), 10.1-1316, and 10.1-1309, between the State Air Pollution Control Board (SAPCB) and Bonsal American Inc., for the purpose of resolving certain violations of the State Air Permit and Regulations as specified in SECTION C of this Order.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in the Va. Code §§ 10.1-1301 and 10.1-1184.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in the Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality.

4. "Facility" means Bonsal American Inc. located at 16326 Industrial Drive in Milford, Virginia.
5. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
6. "Order" means this document, also known as a Consent Order.
7. "Regulations" refers to the Regulations for the Control and Abatement of Air Pollution for the Commonwealth of Virginia.
8. "VAC" means the Virginia Administrative Code.
9. "Va. Code" means the Code of Virginia (1950), as amended.

### **SECTION C: Findings of Fact**

In support of this Order, the DEQ makes the following findings of fact:

1. Bonsal American Inc. (hereinafter Bonsal American) is a producer of packaged cement mixes and related building material products with a manufacturing facility located in Milford, Virginia in Caroline County. The Milford plant blends and packages dry cement products which include the following equipment regulated by the State Air Pollution Control Laws: a fluid bed dryer with fabric filter, three silos, and a mixer with associated baghouse. The fluid bed dryer with fabric filter controls PM and PM-10 emissions and is permitted by a February 23, 2004, Stationary Source Permit to Construct and Operate.
2. On April 3, 2008, two unpermitted storage silos and an unpermitted mixer were found on site during a recent inspection of the facility. The DEQ staff identified the two storage silos and mixer with attached baghouse had been installed and were operating at the facility without the required notification or permit. According to the Production Supervisor on site, construction of the unpermitted equipment commenced on December 13, 2007, and was completed in late February 2008. The Production Supervisor also stated that approximately 100 tons of product (Portland Cement) had been processed by the unpermitted equipment.
3. A Notice of Violation was issued to Bonsal American on April 18, 2008, for failure to obtain a permit to construct and operate prior to commencing construction and operation of the storage silos and mixer associated with the new blending process, as required under the SAPCB regulation 9 VAC 5-80-1120(A).
4. Bonsal American responded to the Notice of Violation on April 28, 2008, with a letter to DEQ. According to Bonsal American, the failure to obtain a permit to construct and operate resulted because a project manager departed from the company. Upper

management discovered that the facility had failed to obtain a permit in February 2008 and immediately began the process to submit the appropriate permit application to DEQ. A Form 7 permit application was submitted to DEQ on February 22, 2008. The DEQ Air Permitting staff is currently working on modifying the facility's permit to include the newly installed equipment. In addition, Bonsal American reported that they stopped using the blending system at the Milford facility on April 3, 2008, and indicated they will not use the equipment until the issuance of the required permit.

#### **SECTION D: Agreement and Order**

The Board orders Bonsal American Inc., and Bonsal American Inc. voluntarily agrees to pay a civil charge in the amount of \$4,500.00. The civil charge is due within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia," delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Either on a transmittal letter or as a notation on the check, Bonsal American Inc. shall indicate that this payment is submitted pursuant to this Order and shall include the Federal Identification Number for Bonsal American Inc.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Bonsal American Inc., for good cause shown by Bonsal American Inc., or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Bonsal American Inc. admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. Bonsal American Inc. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Bonsal American Inc. declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Bonsal American Inc. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Bonsal American Inc. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Bonsal American Inc. shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Bonsal American Inc. shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director in writing within 24 hours of learning of any condition above, which the parties intend to assert will result or has resulted in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Bonsal American Inc. Notwithstanding the foregoing, Bonsal American Inc. agrees to be bound by any compliance date that precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Bonsal American. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Bonsal American Inc. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Bonsal American Inc. voluntarily agrees to the issuance of this Order.
13. The undersigned representative of Bonsal American Inc. certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Bonsal American Inc. to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Bonsal American Inc..

And it is so ORDERED this day of July 2, 2008.

Thomas A. Faha

Thomas A. Faha, Northern Regional Director  
Department of Environmental Quality

Bonsal American Inc. voluntarily agrees to the issuance of this Order.

By: David Maske

Date: 6-26-08

NORTH CAROLINA  
Commonwealth of ~~Virginia~~

City/County of MECKLENBURG

MARY L HAMILTON  
NOTARY PUBLIC  
MECKLENBURG COUNTY, NC  
My Commission Expires 10-9-2012

The foregoing document was signed and acknowledged before me this day of

JUNE 26th, 2008, by J. DAVID MASKE, who is  
(name)

PRESIDENT of Bonsal American Inc. on behalf of the Organization.  
(title)

Mary L. Hamilton  
Notary Public

My commission expires: 10-09-2012